

the City of Spokane and Spokane County between I-90, Spokane County, WA, Due: October 27, 1995, Contact: Gene Fong (360) 753-9413.

EIS No. 950412, Draft EIS, COE, CA, Magpie Creek Channel Section 205 Flood Control Investigation Project, Improvements, Implementation and NPDES Permit Issuance, McCellan Air Force Base, City of Sacramento and lands within the County of Sacramento CA, Due: October 23, 1995, Contact: Joseph Broadhead (916) 264-7622.

EIS No. 950413, Draft EIS, FHW, CA, Alternatives to Replacement of the Embarcadero Freeway and the Terminal Separator Structure, (Formerly CA-480) Implementation, Permit Approvals and Funding, San Francisco County, CA, Due: October 23, 1995, Contact: John R. Schultz (916) 498-5041.

EIS No. 950414, Draft Supplement, FHW, NB, South Locust Street (also known as Old Highway 281) Transportation Improvements, Additional Information, I-80 to the Grand Island and North of US 34, Funding and COE Section 404 Permit, Hall County, NB, Due: October 23, 1995, Contact: Phillip E. Barnes (402) 437-5521.

#### Amended Notices

EIS No. 950376, Draft EIS, AFS, CO, Rio Grande National Forest Land and Resource Management Plan, Implementation, Archuleta, Rio Grande, Custer, Hinsdale, Alamosa, San Juan, Conejos, Mineral and Saquache Counties, CO, Due: December 22, 1995, Contact: James B. Webb (719) 852-5941. Published FR-08-25-95 Due Date Correction.

EIS No. 950383, Draft EIS, MMS, AK, Beaufort Sea Planning Area Proposed 1996 Oil and Gas Lease Sale No. 144, Lease Offerings, Alaska Outer Continental Shelf (OSC), AK, Due: November 20, 1995, Contact: George Valiulis (703) 787-1662. Published FR-08-25-95 Due Date Correction.

Dated: September 5, 1995.

**William D. Dickerson,**

Director, NEPA Compliance Division, Office of Federal Activities.

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[FRL-5293-8]

#### Jack's Creek/Sitkin Smelting Superfund Site De Minimis Settlement; Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act

**AGENCY:** United States Environmental Protection Agency.

**ACTION:** Request for Public Comment.

**SUMMARY:** The United States Environmental Protection Agency is proposing to enter into a *de minimis* settlement pursuant to Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. 9622(g)(4). This proposed settlement is intended to resolve the liabilities under CERCLA of Diversified Industries, Inc., Scullin Steel Company (formerly Eastern Diversified Metals Corporation), and Theodore Sall, Inc. for response costs incurred by the United States Environmental Protection Agency at the Jack's Creek/Sitkin Smelting Superfund Site, Maitland County, Pennsylvania.

**DATES:** Comments must be provided on or before October 10, 1995.

**ADDRESSES:** Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, and should refer to: In Re: Jack's Creek/Sitkin Smelting Superfund Site, Maitland County, Pennsylvania, U.S. EPA Docket No. III-94-40-DC.

**FOR ADDITIONAL INFORMATION CONTACT:** Daniel Isales (215) 597-4774, or Pamela Lazos (215) 597-8504, United States Environmental Protection Agency, Office of Regional Counsel, (3RC22), 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Notice of De Minimis Settlement: In accordance with Section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), and Section 7003(d) of the Solid Waste Disposal Act, 42 U.S.C. 6973(d), notice is hereby given of a proposed administrative settlement concerning the Jack's Creek/Sitkin Smelting Superfund Site in Maitland County, Pennsylvania. The administrative settlement was signed by the United States Environmental Protection Agency, Region III's Regional Administrator on March 6, 1995 and is subject to review by the public pursuant to this Notice. The agreement is also subject to the approval of the Attorney General, United States Department of Justice or her designee and for the grant of a covenant not to sue for damages to natural resources, is also subject to

agreement in writing by the Department of the Interior ("DOI").

The settling parties collectively agreed to pay \$14,478.00 to United States Environmental Protection Agency toward EPA response costs and \$522.00 to DOI for damages to natural resources, subject to the contingency that the Environmental Protection Agency may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this Notice.

EPA is entering into this agreement under the authority of Sections 122(g) and 107 of CERCLA, 42 U.S.C. 9622(g) and 9607. Section 122(g) of CERCLA, 42 U.S.C. 9622(g), authorizes early settlements with *de minimis* parties to allow them to resolve their liabilities under, inter alia, Section 107 of CERCLA, 42 U.S.C. 9607, to reimburse the United States for response costs incurred in cleaning up Superfund sites without incurring substantial transaction costs. The grant of a covenant not to sue for damages to natural resources by DOI to those parties paying their share of such allocated costs is subject to agreement in writing by DOI pursuant to Section 122(j) of CERCLA, 42 U.S.C. 9622(j).

The Environmental Protection Agency will receive written comments upon this proposed administrative settlement for thirty (30) days from the date of publication of this Notice. Moreover, pursuant to Section 7003(d) of the Solid Waste Disposal Act, 42 U.S.C. 6973(d), the public may request a meeting in the affected area. A copy of the proposed Administrative Order on Consent can be obtained from the Environmental Protection Agency, Region III, Office of Regional Counsel, (3RC20), 841 Chestnut Building, Philadelphia, Pennsylvania, 19107 by contacting Daniel Isales at (215) 597-4774 or Pamela Lazos at (215) 597-8504.

**Peter H. Kostmayer,**

Regional Administrator, EPA, Region III.

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[FRL-5293-7]

#### Proposed Administrative Penalty Assessment and Opportunity to Comment

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed assessment of Clean Water Act Class I administrative penalty and opportunity to comment.

**SUMMARY:** EPA is providing notice of a proposed administrative penalty for

alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed penalty.

EPA is authorized under section 309(g) of the Act, 33 U.S.C. 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 309(g), any person who without authorization discharges a pollutant to a navigable water, as those terms are defined in section 502 of the Act, 33 U.S.C. 1362, may be assessed a penalty of up to \$25,000 by EPA in a "Class I" administrative penalty proceeding. Class I proceedings under section 309(g) are conducted in accordance with the proposed "Consolidated Rules of Practice Governing the Administrative Assessment of Class I Civil Penalties Under the Clean Water Act" ("Part 28"), published at 56 FR 29996 (July 1, 1991).

EPA is providing notice of the following proposed Class I penalty proceeding initiated by the Water Management Division, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105:

In the Matter of Oracle Ridge Mining Partners, Docket No. CWA-IX-FY95-07, filed August 25, 1995; proposed penalty, \$25,000; for unauthorized discharges to Gibb Wash and Geesaman Wash between April 1991 and September 1994, and for failure to develop and implement a spill prevention control and countermeasure plan by the deadline required in 40 CFR 112.3, at the Oracle Ridge Mine in Pima County, AZ.

The procedures by which the public may comment on a proposed Class I penalty or participate in a Class I penalty proceeding are set forth in Part 28. The deadline for submitting public comment on a proposed Class I penalty is thirty days after issuance of public notice. The Regional Administrator of EPA, Region 9 may issue an order upon default if the respondent in the proceeding fails to file a response within the time period specified in Part 28.

**FOR FURTHER INFORMATION CONTACT:** Persons wishing to receive a copy of Part 28, review the complaint, proposed consent order, or other documents filed in this proceeding, comment upon the proposed penalty, or participate in any hearing that may be held, should contact Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75

Hawthorne St., San Francisco, CA 94105, (415) 744-1389. Documents filed as part of the public record in this proceeding are available for inspection during business hours at the office of the Regional Hearing Clerk.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty days after issuance of this notice.

Dated: August 29, 1995.

**Alexis Strauss,**  
*Acting Director, Water Management Division.*  
[FR Doc. 95-22334 Filed 9-7-95; 8:45 am]  
BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

[DA 95-1854]

### Pleading Cycle Established for Comments on Request for Declaratory Ruling on the Use of Digital Modulation by Multipoint Distribution Service and Instructional Television Fixed Service Stations

**AGENCY:** Federal Communications Commission.

**ACTION:** Public notice.

**SUMMARY:** This Public Notice established a pleading cycle for comments on a Request for Declaratory Ruling filed by a group of parties regarding the use of digital modulation by Multipoint Distribution Service and Instructional Television Fixed Service Stations. The Commission intends to promptly facilitate the use of digital equipment for these services.

**DATES:** Comments must be received on or before September 22, 1995, and reply comments must be received on or before October 10, 1995.

**ADDRESSES:** Comments and reply comments may be mailed to Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Charles E. Dziedzic or Brandon J. Bullis at (202) 418-1600, Video Services Division, Mass Media Bureau.

The complete text of the Public Notice follows. The Public Notice and a copy of the Request for Declaratory Ruling are available for public inspection in room 207, 2033 M Street, NW., Washington, DC and may also be obtained from the Commission's copy contractor, ITS, Inc. at (202) 418-0620.

Report No. MM 95-83  
Released: August 23, 1995

On July 13, 1995, a request for declaratory ruling on the use of digital

modulation by Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS) stations was filed by a group of ninety-nine parties consisting of MDS and ITFS licensees, wireless cable operators, equipment manufacturers, industry engineers and associations (Petitioners).

Petitioners request that the Commission examine the current MDS and ITFS operational requirements that were adopted before digital compression technology was envisioned and reinterpret them appropriately for digital operations. According to Petitioners, testing conducted in support of this petition demonstrates that the Commission's current MDS and ITFS interference protection rules will safely ensure protection of analog and digital systems during an initial digital transition, with only minimal rule clarifications and waivers necessary. Specifically, Petitioners propose that the Commission apply its current co-channel and adjacent channel desired-to-undesired interference ratios, and for those utilizing digital transmissions, relax the limitations on out-of-band emissions and permit licensees to operate at less than authorized power for an interim period. See 47 CFR 21.902, 74.903, 21.908, 74.936(b), 21.107(c) and 74.951(f). Petitioners ask the Commission to clarify whether, under the minimum ITFS programming requirements, additional ITFS programming must be reserved by licensees who expand capacity of their spectrum by utilizing digital compression technology. See 47 CFR 74.931. In addition, Petitioners ask the Commission to reinterpret several other requirements that were adopted before digital compression technology was envisioned. For example, Petitioners ask that the Commission determine whether ITFS station identification through the periodic transmission of ITFS call signs must be made over one or all of the channels created through use of digital compression. See 47 CFR 74.982.

Petitioners contend that the rapid introduction of digital technology by wireless cable system operators is in the public interest because it will increase the competitive viability of the wireless cable industry and it will also permit educators to increase their transmission capacity. Thus, Petitioners ask the Commission to act promptly on the request in order to have a regulatory framework in place that will permit MDS and ITFS operators to quickly implement digital transmission as soon as equipment is commercially available. Finally, Petitioners suggest that although future testing and information may indicate that further rule changes